IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Bail Appl..No. 4657 of 2007()

O.R.NO.12/2006 OF KARIMUTTI FOREST STATION, CHINNAR WILD LIFE SANCTUARY

PETITIONER/1ST ACCUSED

RAJAN, S/O KANNI,
AGED 43 YEARS, KALATHIRI VAYAL,
MARAYUR, IDUKKI DIST.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS: STATE

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. DEPUTY RANGER,
KARIMUTTI FOREST STATION,
CHINNAR WILD LIFE SANCTUARY.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4657of 2007

Dated this the 8th day of August 2007

O R D E R

Application for anticipatory bail. On 01/10/2006, a jeep in which the petitioner and the co-accused, his son were travelling was allegedly intercepted by the forest officials. The accused persons abandoned the vehicle and took to their heels. A search revealed that two bags of 10 Kgs of sandal wood was available in the jeep and the miscreants were illicitly transporting the same. A crime was registered. In the occurrence report, surprisingly, the sections of offence were shown as Section 52 and 61A of the Kerala Forest Act. Investigation is in progress. The owner of the vehicle has not been ascertained yet. With reference to the vehicular documents, investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. According to the petitioner he was not in the vehicle which was intercepted by the police at all. According to the petitioner he has no connection whatsoever with the vehicle. The petitioner in these circumstances, prays that directions under Section 438 Cr.P.C may be issued in favour of the petitioners.

2. The learned Public Prosecutor submits that all the available indications reasonably point to an inference of guilt against the petitioner. The petitioner is named in the seizure mahazer and occurrence report. Investigation confirms the complicity of the petitioner. In these circumstances, there are no features in this case which would justify invocation of the discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor.

3. I find merit in the opposition by the learned Public Prosecutor. The fact that in the seizure mahazer and the occurrence report, Sections 52 and 61A alone were shown, cannot deliver any advantage to the petitioner. It being very evident that there was only an error on the part of the officials in not stating the correct section of offence at the time when the occurrence report was registered.

4. The petitioner is named in the F.I.R. Notwithstanding his plea that he has no connection with the vehicle, the totality of inputs available point to an inference of guilt against the petitioner. At any rate, the prayer for anticipatory bail cannot be granted on the ground that there is no worthwhile allegation at

all against the petitioner. I agree with the learned Public Prosecutor that this is not a fit case where the extraordinary equitable discretion can be invoked. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate and seek regular bail in the ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007